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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/699,367	10/31/2000	Paulus Cornelis Maria Van Eijck	BO 40319	7817

466 7590 08/13/2003

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EXAMINER

CORBIN, ARTHUR L

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 08/13/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

091 699,367

Applicant(s)

VAN EICK ET AL

Examiner

ARTHUR L. COBBIN

Group Art Unit

1765

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

☒ Responsive to communication(s) filed on 6-27-03

☒ This action is FINAL.

- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

☒ Claim(s) 1-10 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-10 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some\* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other \_\_\_\_\_

Office Action Summary

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugisawa et al.

Applicant is referred to the <sup>Reasoning</sup> ~~reasoning~~ set forth in paragraph No. 7, Paper No. 7.

3. Applicant's arguments filed June 27, 2003 have been fully considered but they are not persuasive. Applicant's initial contention that the claimed blanching step implies the use of water is not convincing since oil blanching, as occurs in Sugisawa et al, is also a type of blanching which causes gelatinization of starch. Applicant's claims are not limited to water blanching, although water blanching is more common than oil blanching. <sup>Contention regarding the sequence of</sup> Applicant's restoring pressure in the claimed process is more specific than applicant's claims, which do not recite a pressure-restoring step. In this regard, applicant's claims do not distinguish over Sugisawa et al.

The drying which applicant claims also occurs in Sugisawa <sup>et al</sup> during the frying step. Thus, as the product is fried in Sugisawa et al, it is continuously dried, and thus some drying occurs before frying is completed.

Although applicant now recites a water content of at least 35%, Sugisawa et al discloses applying a pressure <sup>drop</sup> ~~drop~~ to food products having a water content of at least 35% (Exs. 1 and 5). Moreover, potatoes naturally have <sup>a</sup> water <sup>content as</sup> high as 35%.

Applicant's contention that Sugisawa et al performs the blanching and frying steps at the same temperature is not convincing since Sugisawa et al can blanch at 100°C and then raise the frying temperature to 120°C during frying (Ex. 4). Finding the optimum frying temperature (applicant's claim 10) would require nothing more than routine experimentation by one reasonably skilled in this art.

Whereas, the decompression step is Sugisawa et al ~~and~~ may not be intended to produce physical modification of the food surface, as applicant argues, such a result obviously occurs in Sugisawa et al since decompression causes expansion, and such expansion will result in physical modification of the food surface, as the surface becomes stretched.

Finally, applicant's assertion that Sugisawa et al does not suggest a pressure drop step between blanching and partial frying (page 8 of remarks) is without merit since Sugisawa et al clearly discloses blanching, decompression and then frying (col. 4, lines 41-48).

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication from the examiner should be directed to Arthur Corbin whose telephone number is (703) 308-3850. The examiner can generally be reached on Tuesday--Friday from 10 a.m. to 7:30 p.m. and on alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703) 308-3959. The fax phone numbers for the organization where this application is assigned are (703) 872-9310 for regular communications and (703) 305-7115 for After Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0661.

A. Corbin/dh  
August 8, 2003

  
ARTHUR L. CORBIN  
PRIMARY EXAMINER  
8-8-03